

**REMARKS**

This is a preliminary amendment in response to the Office Action dated January 24, 2006. Claims 1-41 and 51-91 are pending in the application. With this response, Claims 1, 2, 8, 10, 13, 19-21, 24, 30, 51, 60, and 69-70 have been amended, and Claims 18 and 68 have been canceled. In the Office Action, claims 1-41 and 51-91 were rejected pursuant to 35 U.S.C. § 112, 2<sup>nd</sup> paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as their invention. Additionally, Claims 1-41 and 51-91 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. App. Pub. No. 2002/0059114 A1 ("Cockrill") in view of U.S. Patent No. 6,014,641 ("Loeb").

The rejections from the Final Office Action dated January 24, 2006 are discussed below in connection with the various claims. No new matter has been added. Reconsideration of the application is respectfully requested in light of the following remarks.

**I. INTERVIEW SUMMARY**

The Examiner is thanked for the courtesies he extended the undersigned and his colleague, Ray Ricordati, during a telephonic interview on April 14, 2006. The rejections under 35 U.S.C. 112 and 103 and potential amendments were discussed, no agreement was reached.

**II. JANUARY 24, 2006 REJECTIONS UNDER 35 U.S.C. § 112, 2<sup>nd</sup> paragraph**

Independent Claims 1 and 51 were rejected in the Final Office Action dated January 24, 2006 pursuant to 35 U.S.C. § 112, 2<sup>nd</sup> paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as their invention. In particular, the Examiner states that it is unclear "if the first suggested order has the 'first suggested recurrence.'"

Applicants submit that the Claim 1, as amended, particularly points out and distinctly claim the subject matter which Applicants regard as their invention. With this response, claims 1 and 51 have been amended for clarity and not for reasons relating to patentability.

First, Applicants' specification sets forth a variety of exemplary recurrences. For example, a

recurrence may specify, “when the order management system 108 is to generate the order to the fulfillment entity 110A, B and the frequency with which the order should be generated.” (Page 10, lines 20-22). Alternatively, a recurrence may specify, “when the consumer 102 desires to receive the products or services and the frequency or delivery interval.” (Page 10, lines 22-24). The specification also notes that, “a recurrence of individual products or groups of products [may be] set up on different recurrence schedules within one profile 210.” (Page 12, line 22 – Page 13, line 15). This type of profile is illustrated in FIG 3B.

With respect to the claims, Claims 1 and 51 clearly show a system and method that causes fulfillment of an order comprising an identification of a first two or more suggested products or services to be fulfilled, a first suggested recurrence including product specific recurrences for said fulfillment of each of said first two or more suggested products or services, and first suggested quantities for said fulfillment for each of said first two or more suggested products or services, as claimed. In other words, a single order may specify that fulfillment of individual products or services recur according to different recurrence patterns associated with each individual product.

Accordingly, Applicants submit that claims 1 and 51 are definite, and request that these rejections of these claims be withdrawn.

Additionally, dependent claims 2-41 and 52-91 were also rejected pursuant to 35 U.S.C. § 112, 2<sup>nd</sup> paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as their invention. Claims 2-41 and 52-91 depend, directly or indirectly, from claim 1. Applicants respectfully submit that dependent claims 2-41 and 52-91 should be allowed for at least the reasons set forth above for the independent claim.

## **II. JANUARY 24, 2006 REJECTIONS UNDER 35 U.S.C. § 103(a)**

Independent Claims 1 and 51 were rejected in the Final Office Action dated January 24, 2006 pursuant to 35 U.S.C. § 103(a) as being unpatentable over Cockrill in view of Loeb. With this response, claims 1 and 51 have been amended for clarity. Applicants respectfully submit that claims 1 and 51, as amended, are patentable over Cockrill in view of Loeb as the combination of Cockrill and Loeb fails to disclose all of the elements of these claims.

Independent claim 1, as amended, relates to a “method for facilitating electronic commerce through a network, the network comprising at least one server computer capable of communicating with a browser system located at a remote client computer....” The method comprises: “receiving, by said at least one server computer from said browser system, a first request for a first suggested order to be fulfilled, said first suggested order comprising identification of a first two or more suggested products or services of a plurality of products or services, said first suggested order also comprising a first suggested recurrence including product specific recurrences for said fulfillment of each of said first two or more suggested products or services and said first suggested order further comprising first suggested quantities for said fulfillment for each of said first two or more suggested products or services, wherein said product specific recurrence for a first of said first two or more suggested products or services is configurable via said browser system and may be different than said product specific recurrence for a second of said first two or more suggested products or services”; “generating a first profile, by said at least one server computer, said first profile comprising a computer readable representation of said first suggested order”; “balancing, by the at least one server computer, either said first suggested quantities or said product specific recurrences, the balancing thereby substantially equalizing a distribution of subsequent recurrences of said first suggested order”; and “causing, by said at least one server computer, said fulfillment of each of said first two or more suggested products or services to automatically recur one or more times according to said distribution, by signaling a marketing system associated with said at least one server to fulfill each of said first two or more suggested products or services of said first suggested order according to said distribution.”

Independent claim 51, as amended, relates to an “order management system for facilitating electronic commerce over a network, said network comprising at least one server computer capable of communicating with a browser system located at a remote client computer over said network....” The order management system comprises: “an order receiver operative to receive, from said browser system, a first request for a first suggested order to be fulfilled, said first suggested order comprising identification of a first two or more suggested products or services of a plurality of products or services, said first suggested

order also comprising a first suggested recurrence including product specific recurrences for said fulfillment of each of said first two or more suggested products or services and said first suggested order further comprising first suggested quantities for said fulfillment for each of said first two or more suggested products or services, wherein said product specific  
5 recurrences for a first of said first two or more suggested products or services is configurable via said browser system and may be different than said product specific recurrences for a second of said first two or more suggested products or services”; “a profile generator coupled with said order receiver and operative to generate a first profile, said first profile comprising said first suggested order”; “an order balancing processor coupled with said profile generator  
10 and operative to balance either said first suggested quantities or said product specific recurrences, the balancing thereby substantially equalizing a distribution of subsequent recurrences of said first suggested order”; and “an order generator responsive to said first profile and operative to cause said fulfillment of each of said first two or more suggested products or services to automatically recur one or more times according to said distribution,  
15 each of said first two or more suggested products or services of said first suggested order being fulfilled according to said distribution.”

Cockrill discloses a transaction network that facilitates and simplifies purchase transactions between any number of customers and any number of merchants. The network registers and authenticates customer purchase activities and maintains customer account data  
20 including payment information as well as provides a single, central authentication mechanism for all participating merchant sites using a single customer identifier and password. Further, the transaction network accumulates purchase information across all of the merchant sites and the ultimate payment processing of those purchase transactions. The network additionally preferably provides customers with centralized, automated services for  
25 customer account management, product refunds, subscription management, and multiple purchasing accounts linked to the same payment account. *See* Cockrill, Abstract.

Loeb discloses, “A system for providing an open-ended subscription to commodity items normally available on a term basis includes a central agent that serves as the front-end for commodity suppliers. This central agent maintains databases containing information  
30 associated with a group of commodity items and their sales. Using these databases, the

central agent produces subscription records to provide open-ended subscription services to its customers, while supporting the term-based subscriptions of the commodity suppliers.” *See* Loeb, Abstract.

5 While Cockrill does generally disclose subscription products and services, Cockrill fails to disclose a method that includes, “balancing, by the at least one server computer, either said first suggested quantities or said product specific recurrences, the balancing thereby substantially equalizing a distribution of subsequent recurrences of said first suggested order,” or a system that includes, “an order balancing processor coupled with said profile generator and operative to balance either said first suggested quantities or said  
10 product specific recurrences, the balancing thereby substantially equalizing a distribution of subsequent recurrences of said first suggested order,” as claimed by Applicants in Claims 1 and 51, respectively.

Instead, Cockrill discloses a system that provides subscription management services for periodical subscriptions, such as the Wall Street Journal. Cockrill allows a user to track  
15 multiple subscriptions. In addition to the subscription name, each subscription also “includes an indication of the expiration date of the subscription, as well as an indication of whether the subscription will automatically renew when it expires.” Cockrill, para. 91. Cockrill does not disclose or suggest, however, balancing either a recurrence or quantity information, as claimed. The Cockrill system is unable to balance this information, and is similarly unable  
20 to substantially equalize a distribution of subsequent recurrences of an order, as claimed. For these reasons, claims 1 and 51 are patentable over Cockrill.

Loeb fails to fill the gap. Indeed, while Loeb does disclose automatic renewal of a subscription service, Loeb is completely silent as to balancing either product recurrence or quantity information and substantially equalizing a distribution of subsequent recurrences of an  
25 order, as claimed. Because neither Cockrill nor Loeb disclose or suggest each element of Claims 1 and 51, their combination does not disclose or suggest each element of the Claims. For at least these differences, claims 1 and 51 are patentable over Cockrill. Accordingly, Applicants request that this rejection of this claim be withdrawn.

Dependent Claims 2-41 and 52-91 were also rejected pursuant to 35 U.S.C. § 102(e)  
30 as being obvious over the combination of Cockrill and Loeb. Dependent claims 2-41 and 52-

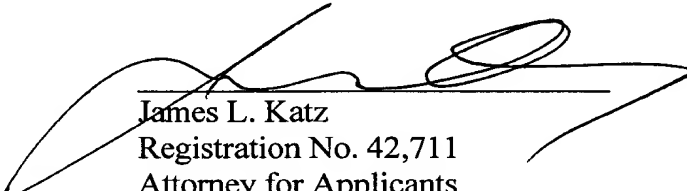
91 depend, directly or indirectly, from claims 1 and 51 and should be allowed for the reasons set out above for the independent claims. Applicants therefore request that the Examiner withdraw this rejection of these claims.

**CONCLUSION**

Applicants respectfully submit that all of the pending claims are in condition for allowance and seek early allowance thereof. If for any reason, the Examiner is unable to allow the application in the next Office Action and believes that an interview would be helpful to resolve any remaining issues, he is respectfully invited to contact the attorney of record, James L. Katz, at (312) 321-7739.

Respectfully submitted,

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